

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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CHARMAINE CHRISTIE,

Case No.: 17-CV-4058(LDW)(ARL)

Plaintiff,

ANSWER

v.

WINTHROP SOUTH NASSAU UNIVERSITY
HEALTH SYSTEM, INC.,

Defendants.
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Defendant NYU Winthrop Hospital sued herein as Winthrop South Nassau University Health System, Inc. ("Defendant" or "Winthrop") by and through its counsel, Kaufman Borgeest & Ryan LLP, responds to Plaintiff Charmaine Christie's Complaint as follows:

PRELIMINARY STATEMENT

1. Defendant denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 1 of Plaintiff's Complaint with regard to Plaintiff, except admits that Plaintiff was employed by Winthrop in or around July 2006 through May 11, 2016. Defendant denies the remaining allegations in Paragraph 1.

2. Paragraph 2 of Plaintiff's Complaint contains a characterization of the purported basis for Plaintiff's claims against Defendant, to which no response is required. To the extent a response is required, Defendant denies each and every allegation contained in Paragraph 2 of Complaint.

3. Paragraph 3 of Plaintiff's Complaint contains a characterization of the purported damages and purported basis for Plaintiff's claims against Defendant, to which no response is required. To the extent a response is required, Defendant denies each and every allegation contained in Paragraph 3 of Complaint.

4. Paragraph 4 of Plaintiff's Complaint contains a characterization of the purported damages and purported basis for Plaintiff's claims against Defendant, to which no response is

required. To the extent a response is required, Defendant denies each and every allegation contained in Paragraph 4 of Complaint.

JURISDICTION AND VENUE

5. Paragraph 5 of Plaintiff's Complaint contains a legal conclusion to which no response is required. To the extent a response is required, Defendant denies each and every allegation contained in Paragraph 5 of Plaintiff's Complaint and refers all questions of law to the Court.

6. Paragraph 6 of Plaintiff's Complaint contains a legal conclusion to which no response is required. To the extent a response is required, Defendant denies each and every allegation contained in Paragraph 6 of Plaintiff's Complaint and refers all questions of law to the Court.

7. Defendants deny knowledge or information sufficient to form a belief regarding the allegations contained in Paragraph 7 of Plaintiff's Complaint, except admit receiving a Notice of Charge of Discrimination filed by Plaintiff from the United States Equal Employment Opportunity Commission dated April 18, 2017. Paragraph 7 of Plaintiff's Complaint also contains a legal conclusion regarding Plaintiff's exhaustion of administrative remedies, to which no response is required. To the extent a response is required, Defendant denies knowledge of information sufficient to form a belief as to the allegation contained in Paragraph 7 of Plaintiff's Complaint and refers all questions of law to the Court.

8. Paragraph 8 of Plaintiff's Complaint contains Plaintiff's demand for a jury trial, to which no response is required.

THE PARTIES

9. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 9 of Plaintiff's Complaint.

10. Defendant denies the allegations contained in Paragraph 10 of Plaintiff's Complaint.

11. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 11 of Plaintiff's Complaint.

12. Defendant denies the allegations contained in Paragraph 12 of Plaintiff's Complaint.

13. Defendant denies each and every allegation contained in Paragraph 13 of Plaintiff's Complaint.

14. Defendant denies each and every allegation contained in Paragraph 14 of Plaintiff's Complaint.

15. Defendant denies each and every allegation contained in Paragraph 15 of Plaintiff's Complaint, except admits that Plaintiff applied for, and received a Nursing Assistant position in the Hospital's Emergency Department. Defendant further admits that Plaintiff received this position on or about May 5, 2013. Defendant denies the remaining allegations in Paragraph 15 of Plaintiff's Complaint.

16. Defendant denies the allegations contained in Paragraph 16 of Plaintiff's Complaint.

17. Defendant denies the allegations contained in Paragraph 17 of Plaintiff's Complaint, and refers the Court to the Nursing Assistant/Telemetry Technician Position Description as the best evidence of its contents.

18. Defendant denies each and every allegation contained in Paragraph 18 of Plaintiff's Complaint.

19. Defendant denies each and every allegation contained in Paragraph 19 of Plaintiff's Complaint.

20. Defendant denies each and every allegation contained in Paragraph 20 of Plaintiff's Complaint.

21. Defendant denies each and every allegation contained in Paragraph 21 of Plaintiff's Complaint.

22. Defendant admits the allegations contained in Paragraph 22 of Plaintiff's Complaint.

23. Defendant admits the allegation contained in Paragraph 23 of Plaintiff's Complaint.

24. Defendant denies each and every allegation contained in Paragraph 24 of Plaintiff's Complaint.

25. Defendant denies each and every allegation contained in Paragraph 25 of Plaintiff's Complaint.

26. Defendant denies each and every allegation contained in Paragraph 26 of Plaintiff's Complaint.

27. Defendant denies each and every allegation contained in Paragraph 27 of Plaintiff's Complaint.

28. Defendant denies each and every allegation contained in Paragraph 28 of Plaintiff's Complaint.

29. Defendant denies each and every allegation contained in Paragraph 29 of Plaintiff's Complaint.

30. Defendant denies each and every allegation contained in Paragraph 30 of Plaintiff's Complaint.

31. Defendant denies each and every allegation contained in Paragraph 31 of Plaintiff's Complaint.

32. Defendant denies each and every allegation contained in Paragraph 32 of Plaintiff's Complaint.

33. Defendant denies each and every allegation contained in Paragraph 33 of Plaintiff's Complaint.

34. Defendant denies each and every allegation contained in Paragraph 34 of Plaintiff's Complaint.

35. Defendant denies each and every allegation contained in Paragraph 35 of Plaintiff's Complaint.

36. Defendant denies each and every allegation contained in Paragraph 36 of Plaintiff's Complaint.

37. Defendant denies each and every allegation contained in Paragraph 37 of Plaintiff's Complaint.

38. Defendant denies each and every allegation contained in Paragraph 38 of Plaintiff's Complaint.

39. Defendant denies each and every allegation contained in Paragraph 39 of Plaintiff's Complaint.

40. Defendant denies each and every allegation contained in Paragraph 40 of Plaintiff's Complaint.

41. Defendant denies each and every allegation contained in Paragraph 41 of Plaintiff's Complaint.

42. Defendant denies each and every allegation contained in Paragraph 42 of Plaintiff's Complaint.

43. Defendant denies each and every allegation contained in Paragraph 43 of Plaintiff's Complaint.

44. Defendant denies each and every allegation contained in Paragraph 44 of Plaintiff's Complaint.

45. Defendant denies each and every allegation contained in Paragraph 45 of Plaintiff's Complaint.

46. Defendant denies each and every allegation contained in Paragraph 46 of Plaintiff's Complaint.

47. Defendant denies each and every allegation contained in Paragraph 47 of Plaintiff's Complaint.

48. Defendant denies each and every allegation contained in Paragraph 48 of Plaintiff's Complaint.

49. Defendant lacks knowledge sufficient to form a belief concerning the truth of the allegation contained in Paragraph 49 of Plaintiff's Complaint.

50. Defendant lacks knowledge sufficient to form a belief concerning the truth of the allegation contained in Paragraph 50 of Plaintiff's Complaint.

51. Defendant denies each and every allegation contained in Paragraph 51 of Plaintiff's Complaint.

AS AND FOR AN ANSWER TO PLAINTIFF'S FIRST CAUSE OF ACTION

52. Defendant repeats and re-alleges each and every response contained in Paragraphs 1 through 51 above, as if fully set forth at length herein.

53. Paragraph 53 of Plaintiff's Complaint contains a legal conclusion to which no response is required.

54. Defendant denies each and every allegation contained in Paragraph 54 of Plaintiff's Complaint.

55. Defendant denies each and every allegation contained in Paragraph 55 of Plaintiff's Complaint.

56. Defendant denies each and every allegation contained in Paragraph 56 of Plaintiff's Complaint.

57. Defendant denies each and every allegation contained in Paragraph 57 of Plaintiff's Complaint.

AS AND FOR AN ANSWER TO PLAINTIFF'S SECOND CAUSE OF ACTION

58. Defendant repeats and re-alleges each and every response contained in Paragraphs 1 through 58 above, as if fully set forth at length herein.

59. Paragraph 59 of Plaintiff's Complaint contains a legal conclusion to which no response is required.

60. Defendant admits the allegation contained in Paragraph 60 of Plaintiff's Complaint.

61. Defendant denies each and every allegation contained in Paragraph 61 of Plaintiff's Complaint.

62. Defendant denies each and every allegation contained in Paragraph 62 of Plaintiff's Complaint.

63. Defendant denies each and every allegation contained in Paragraph 63 of Plaintiff's Complaint.

64. Defendant denies each and every allegation contained in Paragraph 64 of Plaintiff's Complaint.

AS AND FOR AN ANSWER TO PLAINTIFF'S THIRD CAUSE OF ACTION

65. Defendant repeats and re-alleges each and every response contained in Paragraphs 1 through 65 above, as if fully set forth at length herein.

66. Paragraph 66 of Plaintiff's Complaint contains a legal conclusion to which no response is required.

67. Defendant denies each and every allegation contained in Paragraph 67 of Plaintiff's Complaint.

68. Defendant denies each and every allegation contained in Paragraph 68 of Plaintiff's Complaint.

69. Defendant denies each and every allegation contained in Paragraph 69 of Plaintiff's Complaint.

70. Defendant denies each and every allegation contained in Paragraph 70 of Plaintiff's Complaint.

AS AND FOR AN ANSWER TO PLAINTIFF'S FOURTH CAUSE OF ACTION

71. Defendant repeats and re-alleges each and every response contained in Paragraphs 1 through 70 above, as if fully set forth at length herein.

72. Paragraph 72 of Plaintiff's Complaint contains a legal conclusion to which no response is required.

73. Defendant denies each and every allegation contained in Paragraph 73 of Plaintiff's Complaint.

74. Defendant denies each and every allegation contained in Paragraph 74 of Plaintiff's Complaint.

75. Defendant denies each and every allegation contained in Paragraph 75 of Plaintiff's Complaint.

76. Defendant denies each and every allegation contained in Paragraph 76 of Plaintiff's Complaint.

AS AND FOR AN ANSWER TO PLAINTIFF'S FIFTH CAUSE OF ACTION

77. Defendant repeats and re-alleges each and every response contained in Paragraphs 1 through 76 above, as if fully set forth at length herein.

78. Paragraph 78 of Plaintiff's Complaint contains a legal conclusion to which no response is required.

79. Defendant admits the allegation contained in Paragraph 79 of Plaintiff's Complaint.

80. Defendant denies each and every allegation contained in Paragraph 80 of Plaintiff's Complaint.

81. Defendant denies each and every allegation contained in Paragraph 81 of Plaintiff's Complaint.

82. Defendant denies each and every allegation contained in Paragraph 82 of Plaintiff's Complaint.

83. Defendant denies each and every allegation contained in Paragraph 83 of Plaintiff's Complaint.

AS AND FOR AN ANSWER TO PLAINTIFF'S SIXTH CAUSE OF ACTION

84. Defendant repeats and re-alleges each and every response contained in Paragraphs 1 through 83 above, as if fully set forth at length herein.

85. Paragraph 85 of Plaintiff's Complaint contains a legal conclusion to which no response is required.

86. Defendant denies each and every allegation contained in Paragraph 86 of Plaintiff's Complaint.

87. Defendant denies each and every allegation contained in Paragraph 87 of Plaintiff's Complaint.

88. Defendant denies each and every allegation contained in Paragraph 88 of Plaintiff's Complaint.

89. Defendant denies each and every allegation contained in Paragraph 89 of Plaintiff's Complaint.

AS AND FOR AN ANSWER TO PLAINTIFF'S SEVENTH CAUSE OF ACTION

90. Defendant repeats and re-alleges each and every response contained in Paragraphs 1 through 89 above, as if fully set forth at length herein.

91. Paragraph 91 of Plaintiff's Complaint contains a legal conclusion to which no response is required.

92. Defendant denies each and every allegation contained in Paragraph 92 of Plaintiff's Complaint.

93. Defendant denies each and every allegation contained in Paragraph 93 of Plaintiff's Complaint.

94. Defendant denies each and every allegation contained in Paragraph 94 of Plaintiff's Complaint.

95. Defendant denies each and every allegation contained in Paragraph 95 of Plaintiff's Complaint.

AS AND FOR AN ANSWER TO PLAINTIFF'S EIGHTH CAUSE OF ACTION

96. Defendant repeats and re-alleges each and every response contained in Paragraphs 1 through 95 above, as if fully set forth at length herein.

97. Paragraph 97 of Plaintiff's Complaint contains a legal conclusion to which no response is required.

98. Defendant denies each and every allegation contained in Paragraph 98 of Plaintiff's Complaint.

99. Defendant denies each and every allegation contained in Paragraph 99 of Plaintiff's Complaint.

100. Defendant denies each and every allegation contained in Paragraph 100 of Plaintiff's Complaint.

101. Defendant denies each and every allegation contained in Paragraph 101 of Plaintiff's Complaint.

AS AND FOR AN ANSWER TO PLAINTIFF'S NINTH CAUSE OF ACTION

102. Defendant repeats and re-alleges each and every response contained in Paragraphs 1 through 101 above, as if fully set forth at length herein.

103. Paragraph 103 of Plaintiff's Complaint contains a legal conclusion to which no response is required.

104. Defendant denies each and every allegation contained in Paragraph 104 of Plaintiff's Complaint.

105. Defendant denies each and every allegation contained in Paragraph 105 of Plaintiff's Complaint.

106. Defendant denies each and every allegation contained in Paragraph 106 of Plaintiff's Complaint.

107. Defendant denies each and every allegation contained in Paragraph 107 of Plaintiff's Complaint.

DEFENSES

FIRST DEFENSE

108. Plaintiff's Complaint fails to state a claim upon which relief can be granted.

SECOND DEFENSE

109. Plaintiff's claims are barred under the applicable statute(s) of limitation.

THIRD DEFENSE

110. Plaintiff fails to establish a prima facie case of discrimination under federal or state law.

FOURTH DEFENSE

111. Plaintiff cannot show that age was the "but-for" cause of any employment decisions made by Defendant regarding Plaintiff.

FIFTH DEFENSE

112. Plaintiff fails to establish a prima facie case of retaliation.

SIXTH DEFENSE

113. Defendant has established a legitimate, non-discriminatory and non-retaliatory reason(s) for its employment decisions concerning Plaintiff, which Plaintiff cannot show are pretext for discrimination.

SEVENTH DEFENSE

114. Plaintiff cannot show that she suffered harassment based on a protected characteristic or activity that was sufficiently "severe or pervasive" to alter the terms or conditions of her employment.

EIGHTH DEFENSE

115. There is no basis to hold Defendant liable for any alleged hostile work environment.

NINTH DEFENSE

116. The Complaint is barred, in whole or in part, because Defendant exercised reasonable care to prevent and correct promptly any discriminatory conduct, and because Plaintiff unreasonably failed to properly take advantage of any preventative or corrective opportunities provided by Defendant to avoid harm otherwise.

TENTH DEFENSE

117. Defendant acted in good faith and has at all times complied with all applicable anti-discrimination laws.

ELEVENTH DEFENSE

118. Plaintiff has failed to state a claim for the recovery of punitive damages, and any award of punitive damages would violate Defendant's constitutional rights.

TWELFTH DEFENSE

119. Plaintiff failed to mitigate, or reasonably attempt to mitigate, her damages, if any, as required by law.

THIRTEENTH DEFENSE

120. Plaintiff's damages, if any, are a result of Plaintiff's own conduct.

FOURTEENTH DEFENSE

121. Plaintiff's claims are barred under the doctrine of waiver, laches, unclean hands, and/or estoppel.

FIFTEENTH DEFENSE

122. Plaintiff's claims against Defendant should be dismissed because Defendant did not condone, acquiesce, aid, abet or in any manner encourage any alleged unlawful conduct toward Plaintiff.

SIXTEENTH DEFENSE

123. Defendant reserves all rights to assert additional defenses, whether affirmative or otherwise, which may become available during the course of this litigation through discovery or any other means.

WHEREFORE, Defendant respectfully requests that the Court dismiss with prejudice Plaintiff's Complaint, together with an award of reasonable attorneys' fees, costs and disbursements of this action, and such other and further relief as the Court shall deem just and proper.

Date: August 30, 2017
New York, New York

Respectfully submitted,

KAUFMAN BORGEESE & RYAN LLP

By: 

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